



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 08.06.2022

CORAM:

THE HON'BLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.6378 of 2014

E.Prabakaran

... Petitioner

Vs

1.The Government of Tamil Nadu,
Rep. by its Secretary,
Education Department,
Fort St. George, Chennai - 600 009.

2.The Director of Elementary Education,
College Road,
Chennai - 600 006.

3.The District Elementary Education Officer,
Erode Education District,
Erode.

.. Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent in his proceeding in Na. Ka. 8217/A1/96 dt 21.4.2004 and records of the 2nd respondent in his proceeding in Na. ka. No. 34216/ 14/2011 dt 1.3.2011 and proceeding in Na. Ka. No. 8736/14/2011 dt 4.8.2011 and quash the same and consequently direct the respondents to regularise the service of the petitioner in the post of Junior Assistant with effect from the date of his initial appointment and modify the punishment into that of compulsory retirement on par with the similarly placed person N.Subramanian.

[Prayer amended as per the order of this Court [SMSJ] made in WMP No.4363 of 2021 in WP No.6378 of 2014 dated 08.06.2022.]

For Petitioner : Mr.K.Raja

For Respondents: Mrs.S.Anitha
Special Government Pleader.



O R D E R

The order of removal from service is under challenge in the present writ petition.

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2. The petitioner was appointed as Junior Assistant on compassionate ground. A criminal case was registered against the writ petitioner under Sections 409, 420, 462, 472 and 477(A) r/w 120 (b) of IPC, regarding the allegation of misappropriation of public funds to the tune of Rs.2,98,547/-. The writ petitioner was convicted for imprisonment of 2 years with the fine of Rs.4,100/-. The petitioner along with other convicted persons filed Criminal Revision in CrI.R.C.Nos. 221 to 232 of 2003 and this Court passed an order on 19.03.2004, modifying the sentence and thereby, reducing the sentence to the extent of period already underwent and imposed fine of Rs.30,000/- each.

3. However, it is an admitted fact that the conviction was modified and the sentence to undergo the imprisonment was confined with reference to the imprisonment already undergone and further a fine amount of Rs.30,000/- to each of the accused persons were imposed. Thus, the petitioner is a convicted person and therefore, he is not entitled for reinstatement.

4. As per the service rules in force, once the competent Criminal Court convicted a public servant, he is liable to be removed from service by issuing a show cause notice. No further enquiry is required and mere conviction by the competent Criminal Court would be sufficient to issue the penalty of removal from service. This being the rules in force, more specifically, contemplated under Rule 17 (c) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, the claim of the writ petitioner for reinstatement cannot be considered at all. The other grounds raised in the writ petition deserves no merit consideration, as it is an admitted fact that the petitioner is a convicted person and based on the conviction, he was removed from service.

5. In view of the facts and circumstances, the relief as such sought for, cannot be granted as the conviction by the competent Criminal Court stands against the writ petitioner, even as of now.

6. Accordingly, the writ petition is dismissed. No costs.
Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar



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To

- 1.The Secretary,
Government of Tamil Nadu,
Education Department,
Fort St. George, Chennai - 600 009.
- 2.The Director of Elementary Education,
College Road,
Chennai - 600 006.
- 3.The District Elementary Education Officer,
Erode Education District,
Erode.

+lcc to Mr.K.Raja, Advocate, S.R.No.33167
+lcc to the Government Pleader, S.R.No.33648

WP No.6378 of 2014

SR(CO)
SB(06/07/2022)